

PATENT
U.S. Patent Application Serial No. 09/702,303
Attorney Docket No. 00-8008

REMARKS

This is in reply to the Office Action¹ dated July 27, 2005. Claims 1-25 were previously elected for examination and prosecution in response to the restriction requirement in the Office Action dated January 26, 2005. Claims 1-25 are rejected in the instant Office Action. No claims are added, canceled or amended hereby. Therefore claims 1-25 are pending.

Claims 1-25 are rejected under 35 U.S.C. § 103(a) as being un-patentable over Jakobson et al., U.S. Patent No. 6,766,368 B1 (hereinafter "Jakobson"), in view of other U.S. patents or patent applications. Applicants respectfully traverse this rejection for the following reason.

JAKOBSON IS NOT PRIOR ART UNDER 35 U.S.C. § 103

Jakobson cannot be used as prior art against this application under 35 U.S.C. § 103. Effective November 29, 1999, subject matter that was prior art under 35 U.S.C. § 103 via 35 U.S.C. § 102(e) is disqualified as prior art against a claimed invention if that subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person

¹ The Office Action may contain a number of statements characterizing the cited reference(s) and/or the claims which Applicant(s) may not expressly identify herein. Regardless of whether or not any such statement is identified herein, Applicant(s) does not automatically subscribe to, or acquiesce in, any such statement. Further, silence with regard to rejection of a dependent claim, when such claim depends, directly or indirectly, from an independent claim which Applicant(s) deems allowable for reasons provided herein, is not acquiescence to such rejection of that dependent claim, but is recognition by Applicant(s) that such previously lodged rejection is moot based on remarks and/or amendments presented herein relative to that independent claim.

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[35 U.S.C. § 103(c)]. The subject matter of Jakobson and the claimed invention of the present application were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person, namely Verizon.

Therefore Jakobson cannot be used as prior art against this application under 35 U.S.C. § 103. See MPEP §§ 706.02(I)(1), 706.02(I)(2)(II). The rejection of claims 1-25 is therefore overcome.

Applicants respectfully request that the rejection of claims 1-25 be withdrawn and the claims allowed. To the extent necessary, a petition for extension of time under 37 C.F.R. § 1.136 is hereby made, the fee for which should be charged to deposit account 07-2347.

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